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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

SHAUNA SIRAYANONE,

Plaintiff,

v.

Experian Information Solutions, Inc.;
Equifax, Inc.; Discover Bank; The Golden
1 Credit Union; Synchrony Bank; Toyota
Financial Services; Wells Fargo Card
Services, Inc. and DOES 1 through 100
inclusive,

Defendants.

CASE NO.

COMPLAINT FOR DAMAGES:

1. Violation of Fair Credit Reporting Act;
2. Violation of California Consumer Credit Reporting Agencies Act;
3. Violation of California Unfair Business Practices Act
4. Demand Exceeds \$10,000.00

COMES NOW Plaintiff SHAUNA SIRAYANONE, an individual, based on information and belief, to allege as follows:

INTRODUCTION

1. This case arises under the Fair Credit Reporting Act, 15 U.S.C. § 1681s-2(b), California Consumer Credit Reporting Agencies Act, California Civil Code §1785.25(a), and California Business and Professions Code § 17200. Plaintiff seeks redress for the unlawful and deceptive practices committed by the Defendants in connection with their inaccurate reporting of Plaintiff's debt included in Plaintiff's Chapter 7 bankruptcy.

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JURISDICTION & VENUE

2. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and every paragraph above, fully set forth herein.

3. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1337, and 1367, and 15 U.S.C. § 1681

4. This venue is proper pursuant to 28 U.S.C. §1391(b).

GENERAL ALLEGATIONS

5. Plaintiff filed for Chapter 7 bankruptcy protection on March 31, 2015 in order to reorganize and repair Plaintiff's credit. Plaintiff's Chapter 7 bankruptcy was discharged on July 13, 2015.

6. On October 12, 2015 Plaintiff ordered a three bureau report from Equifax, Inc. to ensure proper reporting.

7. Plaintiff noticed several tradelines all reporting misleading and or inaccurate account status on the account and or listed the account as past due, in collections, and or charged off rather than discharged in Bankruptcy.

8. In response Plaintiff disputed the inaccurate tradelines via certified mail with Experian Information Solutions, Inc.; Equifax, Inc.; and TransUnion, LLC.

9. Plaintiff is informed and believes that each credit reporting agency sent each Defendant notification that plaintiff was disputing the accuracy of what it was reporting to them.

10. Defendants Discover Bank; The Golden 1 Credit Union; Synchrony Bank; Toyota Financial Services and Wells Fargo Card Services, Inc. failed to conduct a reasonable investigation and reported falsely to Experian Information Solutions, Inc. and Equifax, Inc. a misleading and or inaccurate account status on the account and or listing of the account as past due, in collections, and or charged off rather than discharged in Bankruptcy.

11. Equifax, Inc. failed to perform its own reasonable investigation and failed to correct the inaccuracies and failed to note that Plaintiff disputed the information as Plaintiff received a reinvestigation report from Equifax, Inc. that failed to properly address the inaccuracies.

1 12. Experian Information Solutions, Inc. failed to perform its own reasonable investigation
2 and failed to correct the inaccuracies and failed to note that Plaintiff disputed the information
3 as Plaintiff received a reinvestigation report from Experian Information Solutions, Inc. that
4 failed to properly address the inaccuracies.

5 13. On December 15, 2015 Plaintiff ordered a second three bureau report from Equifax,
6 Inc. to ensure proper reporting.

7 14. Plaintiff's account was in dispute but the furnisher; Experian Information Solutions,
8 Inc. and Equifax, Inc. failed to correct the misleading and or inaccurate statements on the
9 account within the statutory time frame or at all.

10 15. The credit bureaus have an obligation to delete the tradeline when a response is not
11 received by the furnisher within the statutory time frame.

12 16. The actions of the Defendants as alleged herein are acts in violation of the Fair Credit
13 Reporting Act, 15 U.S.C. § 1681s-2(b).

14 17. The actions of the Defendants as alleged herein are acts in violation of the consumer
15 credit reporting agencies act California Civil Code § 1785.25(a).

16 18. The actions of the Defendant as alleged herein are acts in violation of the California
17 Business and Professions Code § 17200.

18 **FIRST CAUSE OF ACTION**
19 (Violation of Fair Credit Reporting Act
20 15 U.S.C. § 1681s-2(b))
(Against Defendants and Does 1-100)

21 **Experian Information Solutions, Inc. and Equifax, Inc.- Failure to Reinvestigate Disputed**
22 **Information.**

23 19. Plaintiff realleges and incorporates herein the allegation in each and every paragraph
24 above as though fully set forth herein.

25 20. After plaintiff disputed the accounts mentioned above, defendants Experian Information
26 Solutions, Inc. and Equifax, Inc. were required to conduct a reasonable investigation and to
27 delete any information that was not accurate. In doing so, defendants were required to send all
28 relevant information to the furnishers which they did not do based on the reinvestigation report
Plaintiff received.

1 21. In its reinvestigation report Experian Information Solutions, Inc. and Equifax, Inc. failed
2 to update the misleading and or inaccurate account status on the account and or listed the
3 account as past due, in collections, and or charged off rather than discharged in Bankruptcy.

4 22. Defendants Experian Information Solutions, Inc. and Equifax, Inc. also failed to note
5 the account as disputed.

6 **Discover Bank; The Golden 1 Credit Union; Synchrony Bank; Toyota Financial Services**
7 **and Wells Fargo Card Services, Inc. – Reporting Inaccurate Information to Defendants**
8 **Experian Information Solutions, Inc. and Equifax, Inc. and Failure to Reinvestigate.**

9 23. Plaintiff realleges and incorporates herein the allegation in each and every paragraph
10 above as though fully set forth herein.

11 24. 15 USC 1681s-2b prohibits furnishers from providing any information relating to a
12 consumer to any consumer reporting agency if the person knows or has reasonable cause to
13 believe that the information is inaccurate or misleading and requires a furnisher to update and
14 or correct inaccurate information after being notified by a consumer reporting agency of a
15 dispute by a consumer.

16 25. Defendants Discover Bank; The Golden 1 Credit Union; Synchrony Bank; Toyota
17 Financial Services and Wells Fargo Card Services, Inc. violated section 1681s-2b by failing to
18 conduct a reasonable investigation and re-reporting a misleading and or inaccurate account
19 status on the account and or listed the account as past due, in collections, and or charged off
20 rather than discharged in Bankruptcy. Defendants Experian Information Solutions, Inc. and
21 Equifax, Inc. provided notice to the defendants that Plaintiff was disputing the inaccurate or
22 misleading information but each of the furnishers failed to conduct a reasonable investigation
23 of the information as required by the FCRA.

24 26. Defendant Discover Bank supplied inaccurate and misleading to the Credit Reporting
25 Agencies by reporting, after Plaintiff's chapter 7 filing and subsequent discharge, that the
26 account was in collections and charged of despite Plaintiff's chapter 7 discharge.

27 27. Defendant The Golden 1 Credit Union supplied inaccurate and misleading to the
28 Credit Reporting Agencies by reporting, after Plaintiff's chapter 7 filing and subsequent
discharge, that the account was in collections and charged of despite Plaintiff's chapter 7
discharge.

28. Defendant Synchrony Bank supplied inaccurate and misleading to the Credit Reporting Agencies by reporting, after Plaintiff's chapter 7 filing and subsequent discharge, that the account was in collections and charged of despite Plaintiff's chapter 7 discharge.

29. Defendant Toyota Financial Services supplied inaccurate and misleading to the Credit Reporting Agencies by reporting, after Plaintiff's chapter 7 filing and subsequent discharge, that the account was in collections and charged of despite Plaintiff's chapter 7 discharge.

30. Defendant Wells Fargo Card Services, Inc. supplied inaccurate and misleading to the Credit Reporting Agencies by reporting, after Plaintiff's chapter 7 filing and subsequent discharge, that the account was in collections and charged of despite Plaintiff's chapter 7 discharge.

31. All Defendants re-reported to the bureaus the misleading and or inaccurate information as seen in Plaintiff's reinvestigation reports.

SECOND CAUSE OF ACTION

(Violation of California Consumer Credit Reporting Agencies Act
California Civil Code § 1785.25(a))
(Against Defendants and Does 1-100)

Discover Bank; The Golden 1 Credit Union; Synchrony Bank; Toyota Financial Services and Wells Fargo Card Services, Inc. – Reporting Inaccurate Information to Defendants Experian Information Solutions, Inc. and Equifax, Inc.

32. Plaintiff realleges and incorporates herein the allegation in each and every paragraph above as though fully set forth herein.

33. Defendants Discover Bank; The Golden 1 Credit Union; Synchrony Bank; Toyota Financial Services and Wells Fargo Card Services, Inc. intentionally and knowingly reported a misleading and or inaccurate account status on the account and or listed the account as past due, in collections, and or charged off rather than discharged in Bankruptcy to Experian Information Solutions, Inc. and Equifax, Inc. Plaintiff alleges that Creditors re-reported a misleading and or inaccurate account status on the account and or listed the account as past due, in collections, and or charged off rather than discharged in Bankruptcy to Experian Information Solutions, Inc. and Equifax, Inc. in violation of California Civil Code § 1785.25(a).

34. Plaintiff also alleges that Creditors had reason to know that the information reported on Plaintiff's accounts were misleading and or inaccurate.

1 35. Plaintiff alleges that the bankruptcy notices, disputes letters from all three credit
2 reporting agencies, the consumer data industry resource guide, and results of its investigation
3 should have provided notice to Defendants of its misleading and or inaccurate reporting.

4 36. Creditors failed to notify Experian Information Solutions, Inc. and Equifax, Inc. that
5 the information Defendants re-reported was inaccurate before the end of 30 business days, in
6 violation of California Civil Code § 1785.25(a).

7 37. Creditor's communications of false information, and repeated failures to investigate,
8 and correct their inaccurate information and erroneous reporting were done knowingly,
9 intentionally, and in reckless disregard for their duties and Plaintiff's rights.

10 38. As a direct and proximate result of Creditor's willful and untrue communications,
11 Plaintiff has suffered actual damages including but not limited to inability to properly
12 reorganize under Chapter 7, reviewing credit reports from all three consumer reporting
13 agencies, time reviewing reports with counsel, sending demand letters, diminished credit score,
14 and such further expenses in an amount to be determined at trial.

15 39. Wherefore, Plaintiff prays for judgment as hereinafter set forth.

16 **THIRD CAUSE OF ACTION**

17 (Unfair Business Practices Act
18 California Business and Professions Code § 17200)
19 (Against Defendant Creditors and Does 1-100)

20 40. Plaintiff re-alleges and incorporates herein by this reference the allegations in each and
21 every paragraph above, as though fully set forth herein.

22 41. Plaintiff brings this action in individual capacity and on behalf of the general public.

23 42. Creditors at all times relevant to this Complaint were engaged in the business of
24 collections and providing services on credit to qualified applicants.

25 43. Commencing on or about March 31, 2015 and continuing to the present, Creditors
26 committed the acts of unlawful practices as defined by Business and Professions Code § 17200
27 and described in the above stated Causes of Action.

28 44. These unlawful business practices of the Creditors are likely to continue and therefore
will continue to injure Plaintiff and mislead the public by inaccurate record keeping, failure to

1 correct inaccuracies and erroneous dissemination of inaccurate information, and present a
2 continuing threat to the public.

3 45. Creditor's acts and practices described above were unlawful under the California Civil
4 Code § 1785.25(a) and therefore unlawful business practices within the meaning of Business
5 and Professions Code § 17200.

6 46. Wherefore, Plaintiff prays for judgment as hereinafter set forth.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff prays for judgment as follows:

- 9 a. For preliminary and permanent injunctive relief to stop Defendants from
10 engaging in the conduct described above;
- 11 b. Award statutory and actual damages pursuant to 15 U.S.C. § 1681n and
12 California Civil Code § 1785.31;
- 13 c. Award punitive damages in order to deter further unlawful conduct pursuant to
14 15 U.S.C. § 1681n; and California Civil Code § 1785.31
- 15 d. Award \$2,500 in civil penalties pursuant to California Business & Professions
16 Code § 17206;
- 17 e. Award attorney's fees and costs of suit incurred herein pursuant to 15 U.S.C. §
18 1681n & o; California Civil Code § 1785.31;
- 19 f. For determination by the Court that Creditor's policies and practices are
20 unlawful and in willful violation of 15 U.S.C. § 1681n, et seq.; and California
21 Business and Professions Code § 17200, et seq.;
- 22 g. For determination by the Court that Creditor's policies and practices are
23 unlawful and in negligent violation of 15 U.S.C. § 1681o;

24 Dated: February 1, 2016

25 By: **SAGARIA LAW, P.C.**
26 /s/ Elliot Gale
27 Scott Sagaria, Esq.
28 Elliot Gale, Esq.
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial of this matter by jury.

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3 Dated: February 1, 2016
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SAGARIA LAW, P.C.

/s/ Elliot Gale

Scott Sagaria, Esq.

Elliot Gale, Esq.

Attorneys for Plaintiff